

# LACY'S CASE ARGUED

Hearing of Habeas Corpus Proceedings  
 Begun in the Supreme Court.

MR. BURKE SPRINGS A SURPRISE.

He Raises the Point That the Justice  
 Had No Right to Send the Case On-  
 Contention That the Two Maupin  
 Bills Are in Conflict, and Void.

The hearing of the habeas corpus case  
 brought by Richard M. Lacy to test the  
 constitutionality of the Maupin act pro-  
 hibiting foreign book-making in Virginia  
 was begun in the Supreme Court of Ap-  
 peals yesterday.

The styles of the case is Lacy vs. Pal-  
 mer, the latter being the Sheriff of Alex-  
 andria county, to whose custody the peti-  
 tioner was committed by the examining  
 magistrate. The preliminaries and the  
 opening argument of Mr. Burke, of coun-  
 sel for Lacy, or, really, the race-track  
 people, consumed the remainder of yester-  
 day's session of the court, after the  
 opinions had been handed down, and the  
 further hearing will consume the whole  
 of to-day.

Attorneys Edmund Burke, Samuel G.  
 Brent, Francis L. Smith, and R. Walton  
 Moore appeared as counsel for the racing  
 people, and Attorney-General Scott re-  
 presented the State. Mr. Leonard Mar-  
 bury, of Alexandria, was to be associated  
 with Major Scott, but for some reason  
 he was not present yesterday.

AMEND THE PETITION.

It was shortly after the noon hour when  
 Chief Justice Taylor called the case of Lacy  
 vs. Palmer, Sheriff, and Mr. Burke arose  
 and, addressing the court, asked per-  
 mission to amend the petition originally  
 filed for a writ of habeas corpus. He  
 explained that the amendment consisted  
 only of a bare and succinct statement of  
 facts, and the Attorney-General raising  
 no objections thereto, the court permitted  
 the petition to be amended.

The case was then regularly gone into,  
 and Attorney-General Scott read the  
 mittimus on which the prisoner, Lacy,  
 was committed to jail, together with the  
 charge against him—namely, that he did  
 offer in Alexandria county a wager to be  
 placed on a certain horse racing within  
 the State of Virginia.

Mr. Burke then read Lacy's demurrer  
 to the mittimus, and called attention to  
 the clause in the petition which stated  
 that the wager, which was to have been  
 transmitted to the State of Virginia,  
 was not in violation of the laws of that State.

The Attorney-General suggested that  
 the statement as to the laws of West Vir-  
 ginia was a matter that should be proven,  
 and that the case might be looked into  
 later.

QUESTION OF JURISDICTION.

Mr. Burke referred to the recently-en-  
 acted law giving exclusive jurisdiction  
 in misdemeanor cases to justices of the  
 peace, and said that the commitment of  
 the justice was illegal, in that he did  
 not have the right to send a case to the  
 Supreme Court, but that the jurisdiction  
 of the court had no right to try it. Mr.  
 Burke offered, however, to waive this  
 point and have the court pass upon the  
 merits of the case.

The point came like a bombshell upon  
 all present, and the court at once ad-  
 journed. After ten minutes the judges  
 ascended the bench again, and President  
 Keith stated that he gave one, and one  
 dictum was considered carefully. The  
 court was, however, content to take  
 the case as it is, and consider it, and  
 the case of the point raised, and the  
 dictum was considered carefully. The  
 body of the Maupin act was entirely  
 barren of any allusion to pool-selling, and  
 fixed no penalty therefor, and yet the  
 law was simply to prevent pool-selling,  
 etc., and was therefore insufficient and  
 unconstitutional. Mr. Burke dwelt at consid-  
 erable length on this point, and sub-  
 stantiated his argument by the bill,  
 setting forth that the bill was harsh legisla-  
 tion, which so restricted a citizen as  
 to prohibit him from sending his  
 money out of the State for any purpose  
 whatever. It was clearly the act of the  
 Legislature, and the act was pro-  
 hibiting gambling in the Commonwealth,  
 and there was no right vested in it to prohibit  
 a citizen from sending his money be-  
 yond the borders of the Commonwealth  
 for gambling purposes, if he so desired.

THE TWO ACTS COMPARED.

Comparing the two Maupin acts—the  
 one prohibiting local and the other  
 foreign pool-selling—Mr. Burke showed that  
 the penalties prescribed by the two acts  
 were dissimilar, though punishing simi-  
 lar offenses, and that the latter was  
 justified by the peculiar phraseology of the  
 two acts the one repealed the other.  
 Both of these acts, he said, were ap-  
 proved by the Governor on the same  
 day, and he submitted that the one repug-  
 nant to the other, are approved on the same  
 day, it is impossible for the courts to  
 decide which should have precedence,  
 and both shall stand. He therefore con-  
 tended in general terms that one Maupin  
 act nullified the other, and that, as a  
 result, none of the anti-race-track gam-  
 bling laws enacted by the last Legisla-  
 ture were valid.

INTERSTATE COMMERCE.

Mr. Burke, in concluding his argu-  
 ment, said he wanted an interpretation  
 from the Supreme Court, not only of the  
 constitutionality of the Maupin law, but  
 of the interstate commerce law, as en-  
 acted by the Congress of the United  
 States. He dwelt at some length on the  
 rights of free and unrestricted commerce  
 between the States, and of the evils  
 which would result if the law were not  
 enforced. He concluded at a few minutes  
 before 2 o'clock, and the court adjourned  
 until this morning at 11 o'clock.

NOT VIOLATING THE ORDINANCE.

Mr. Sitterding's Work on the Thea-  
 tre Could Not Be Interrupted.

In view of the action taken on Wednes-  
 day afternoon by the Committee on  
 Streets regarding the obstructions at the  
 corner of Seventh and Broad streets,  
 where Mr. Fritz Sitterding is tearing  
 down the old Richmond Theatre, City-  
 Engineer Cuthaw yesterday morning called  
 on Chief-of-Police Howard and re-  
 quested him to carry out the desires of  
 the committee and have the nuisance at  
 that point abated. Major Howard forth-  
 with ordered that all work upon the build-  
 ing be stopped, and that Broad street be  
 cleared until the matter could be settled  
 in the Police Court, and reported Mr. Sit-  
 terding to the City Engineer. City-Engineer  
 Cuthaw, and Mr. Sitterding, City-Attorney  
 Meredith stated that as far as was pos-  
 sible the city ordinance was not violat-  
 ing the city ordinance at all, while he  
 might be keeping strictly within the  
 terms of his agreement with the Street  
 Committee and the City Engineer. Having  
 received this assurance from the City At-  
 torney, the City Engineer turned the mat-  
 ter over to the City Engineer. He was  
 in work at 1 o'clock, and they were  
 promptly arrested and taken to the Second  
 Jail. In the mean time Captain Angle  
 had heard of the result of the conference  
 between the gentlemen above named, and  
 when the workmen were brought in he  
 immediately endeavored to communicate  
 with the Chief of Police, who had not at  
 this time been advised of the City At-  
 torney's opinion. Captain Angle could not  
 reach Major Howard, so he took it upon  
 himself to dismiss the case against the  
 employees and reported his action to Chief  
 Howard later for the latter's approval.

PROPERTY TRANSFERS.

Richmond: William A. Johnson and  
 wife to F. M. Connor, interest in Rope-  
 way tract.  
 William P. DeSaussure, special commis-  
 sioner, to Joseph W. Blanton, 69 feet on  
 Tenth street southeast corner of Leigh  
 street.  
 H. L. Denoon and wife to Joseph Hep-  
 bert, 32 1/2 feet on south side of Grace  
 street between Eighth and Ninth, sub-  
 ject to deed of trust for \$5,000, \$7,000.  
 James G. Gray's trustee to Mary D.  
 Barksdale's trustee, 20 1/2 feet on south  
 side of Cary street between Thirteenth  
 and Virginia, \$5,500.  
 James R. Lee to Richmond and J. L.  
 Blanton, 20 feet on east side of Marshall  
 street between Gilmer and Graham, \$5.  
 George W. Walcott and wife to John  
 Bagley, 25 1/2 feet on west side of Twenty-  
 sixth street between Clay and Leigh,  
 \$300.

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